

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

C.P., by and through his parents, Patricia
Pritchard and Nolle Pritchard; and
PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

DECLARATION OF ELEANOR
HAMBURGER IN SUPPORT OF
PLAINTIFF C.P.'S MOTION FOR CLASS
CERTIFICATION

**CONFIDENTIAL EXHIBITS A-I, L, O and Q
FILED UNDER SEAL
Pursuant to Protective Order (Dkt. No. 25)**

I, Eleanor Hamburger, declare under penalty of perjury and in accordance with the laws of the State of Washington and the United States that:

1. I am a partner at Sirianni Youtz Spoonemore Hamburger and am one of the attorneys for plaintiffs in this action.

2. *Experience.* I have worked my entire career representing individuals and classes regarding access to health care and health benefits. I graduated from New York University School of Law where I was a Root-Tilden-Snow scholar. After law school, I worked at the Office of the Public Advocate in Newark, New Jersey and at Consumers Union's West Coast Regional Office in San Francisco, California before moving to Seattle, Washington.

1 3. I worked at Columbia Legal Services from 1998 to 2004 as a staff attorney
 2 in its Tacoma and Seattle, Washington offices. My practice there included representing
 3 low-income elderly and disabled individuals to obtain access to Medicaid services.
 4 During my tenure at Columbia Legal Services, I also taught the Disability Law Clinic at
 5 the University of Washington School of Law, supervising legal interns as they
 6 represented individuals in disputes involving Medicaid benefits from the Washington
 7 Department of Social and Health Services.

8 4. In 2004, I joined the Seattle law firm of Sirianni Youtz Meier &
 9 Spoonemore, now Sirianni Youtz Spoonemore Hamburger, representing clients in
 10 business litigation, insurance coverage disputes, ERISA health/disability and
 11 pension/profit-sharing litigation, and securities fraud. I continue to represent health
 12 care and health coverage enrollees, often on a *pro bono* basis. In 2009, I became a partner
 13 in the law firm.

14 5. I am also a co-founder and former president of the Northwest Health Law
 15 Advocates, a nonprofit health law and advocacy organization dedicated to increasing
 16 access to health care and health coverage in Washington state.

17 6. My advocacy on behalf of persons with disabilities has been recognized by
 18 the Arc of Washington, Washington Autism Advocacy and Alliance, and Autism Speaks.
 19 Our firm has been recognized by Columbia Legal Services for its dedication to
 20 representation of low-income persons and for its work on behalf of indigent patients in
 21 one of my cases, *Lopez v. Health Management Associates*.

22 7. I am or have been class counsel, along with other co-counsel at my firm
 23 and/or other law firms, in the following class actions: *J.R. v. Blue Cross Blue Shield of*
 24 *Illinois*, No. 2:18-cv-01191-JLR, Federal District Court, Western District of Washington;
 25 *D.T. v. NECA/IBEW Family Care Plan, et al.*, No. C17-00004 RAJ, Federal District Court,
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1 Western District of Washington; *B.E. v. Teeter*, No. 2:16-cv-00227-JCC, Federal District
 2 Court, Western District of Washington; *N.C. v. Wash. Health Care Auth.*, No. 16-2-08002-
 3 2 SEA, King County Superior Court, Seattle, Washington; *Morton v. Group Health*, No.
 4 16-2-02011-9 SEA, King County Superior Court, Seattle, Washington; *A.D. v. T-Mobile*,
 5 No. 2:15-cv-00180-RAJ, Federal District Court, Western District of Washington; *Lopez v.*
 6 *HMA, Inc.*, No. 13-2-03580-3, Yakima County Superior Court; *Carr v. United Health Care*
 7 *et al.*, No. 2:15-cv-1105 MJP, Federal District Court, Western District of Washington;
 8 *Dunakin v. Quigley*, No. C14-0567-JRL, Federal District Court, Western District of
 9 Washington, *P.S. v. State of Oregon and Oregon PEBB*, No. 14C15068, Marion County
 10 Circuit Court, Salem Oregon; *C.S. v. Boeing*, No. 2:14-cv-00574-RSM, Federal District
 11 Court, Western District of Washington; *M.T.E. v. Washington Dept.. of Social and Health*
 12 *Svcs.*, No. 11-2-01209-1, Thurston County Superior Court, Olympia, Washington; *A.M. v.*
 13 *Moda Health Plan Inc.*, No. 2:14-cv-1191-TSZ, Federal District Court, Western District of
 14 Washington; *A.E. v. King County*, No. 2:14-cv-00280-TSZ, Federal District Court, Western
 15 District of Washington; *R.H. v. Premera Blue Cross*, No. 2:13-cv-00097-RAJ, Federal
 16 District Court, Western District of Washington; *K.M. v. Regence BlueShield*, No. 2:13-cv-
 17 01214-RAJ, Federal District Court, Western District of Washington; *Z.D. v. Group Health*
 18 *Cooperative*, No. 2:11-CV-01119-RSL, Federal District Court, Western District of
 19 Washington; *Elkins v. Dreyfus*, No. 2:10-cv-01366-MJP, Federal District Court, Western
 20 District of Washington; *Gabriel, et al. v. Nationwide Life Ins. Co.*, Federal District Court,
 21 Western District of Washington, No. 09-CV-00508-JCC; *Washington Education Association,*
 22 *et al., v. Washington Department of Retirement Systems, et al.*, No. 11-2-02213-4, Thurston
 23 County Superior Court; *O.S.T. v. Regence BlueShield*, No. 11-2-34187-9 SEA, King County
 24 Superior Court; *D.M. v. Group Health Cooperative*, No. 10-2-28618-7 SEA, King County
 25 Superior Court; *D.F. v. Washington State Health Care Authority, et al.*, No. 10-2-29400-7
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1 SEA; King County Superior Court; *A.G. v. Premera Blue Cross*, No. 11-2-30233-4 SEA, King
 2 County Superior Court; *J.P. v. Premera Blue Cross*, No. 12-2-33676-8 SEA, King County
 3 Superior Court; and *Rockey v. The Center for Counseling and Health Resources, et al.*,
 4 Snohomish County Superior Court, No. 09-2-02242-7.

5 8. I am also litigating a number of cases involving the Affordable Care Act's
 6 Section 1557, including *T.S. v. Heart of Cardon, LLC*, 2022 U.S. App. LEXIS 21737, at *7-8
 7 (7th Cir. Aug. 5, 2022) and *Schmitt v. Kaiser Found. Health Plan of Wash.*, 965 F.3d 945 (9th
 8 Cir. 2020).

9 9. I have also represented many individuals who challenge denials of
 10 coverage for health care services by their third-party payors or insurers. *See, e.g.*,
 11 *Stabelfeldt v. Kaiser*, No. 18-2-00939-1 SEA, King County Superior Court (2018); *A.A. v.*
 12 *Blue Cross Blue Shield of Ill.*, No. 2:13-cv-00357-RSM, Federal District Court, Western
 13 District of Washington (2014); *Roberts v. Regence BlueShield*, No. 09-2-38690-1 SEA, King
 14 County Superior Court (2010); *K.J. v. Regence BlueShield*, No. 09-2-17149-1 SEA, King
 15 County Superior Court (2009); *K.F. v. Regence BlueShield*, 2008 WL 4223613 (W.D. Wash.
 16 2008); *Murch v. Prudential*, No. C05-0992P, Federal District Court, Western District of
 17 Washington (2006); and *Caffell v. Regence BlueShield*, No. C03-3374-RSM, Federal District
 18 Court, Western District of Washington (2005).

19 10. **Resources.** The firm has committed significant resources to this litigation
 20 and will continue to do so. We have spent a considerable amount of time investigating
 21 the claims and defenses in this case.

22 11. I have no knowledge of any similar litigation brought against BCBSIL
 23 challenging its administration of gender affirming care exclusions contained in the
 24 ERISA self-funded group health plans that it administers.

12. On August 24, 2022, I provided a list of the exhibits labelled confidential that Plaintiff intended to rely upon for Plaintiffs' motion for class certification. Defense counsel requested that these exhibits be filed under seal so that defendant would have the opportunity to review the exhibits and determine if they should be maintained confidentially.

13. On August 25, 2022, I communicated with defense counsel about how to handle the filing of confidential documents throughout the class certification briefing. The parties' counsel agreed that Placeholder Motion to Seal/Redact will serve as the placeholder motion for all documents marked confidential by either party that are relied upon in the class certification briefing and filed with the Court. The parties further agreed that the noting date for the Motion will be October 28, 2022, with responsive pleadings filed on October 24, 2022. The parties agreed that reply briefing, if any, will be due on the noting date.

14. **Exhibits.** Attached are true and correct copies of the following documents, with underlining where appropriate for the Court's convenience:

Exhibit	Description	Date
A	Excerpts of Zoom Video Deposition Upon Oral Examination of Kim Reed (BCBSIL Rule 30(b)(6)) - CONFIDENTIAL	06/02/2022
B	Excerpts of Zoom Video Deposition Upon Oral Examination of Mark Larson (BCBSIL Rule 30(b)(6)) - CONFIDENTIAL	06/28/2022
C	DSHS Assurance of Compliance for Health Care Service Corp. - CONFIDENTIAL BCBSIL_CP_0015459 (Rule 30(b)(6) Dep. Exh. 6)	01/19/2018
D	HSCS Medical Policies, <i>Gender Assignment Surgery and Gender Reassignment Surgery with Related Services</i> - CONFIDENTIAL BCBSIL_CP0003507-3526 (Rule 30(b)(6) Dep. Exh. 31)	Effective 10/01/2016

Exhibit	Description	Date
E	Medical Policy7 Discussion Conference Call Minutes – CONFIDENTIAL BCBSIL_CP0010675-10685 (Rule 30(b)96) Dep. Exh. 32)	09/27/2017
F	Excerpts of Zoom Video Deposition Upon Oral Examination of Telisa Drake (BCBSIL Rule 30(b)(6)) – CONFIDENTIAL	05/13/2022
G	Medical Policy, Discussion Conference Call Minutes – CONFIDENTIAL BCBSIL_CP0010815-10818 (Rule 30(b)(6) Dep. Exh. 33)	02/23/2021
H	Yanfeng Automotive Interiors’ Benefits Plan administered by BCBSIL (Rule 30(b)(6) Dep. Exh. 40) – CONFIDENTIAL	2020
I	Excerpts of Zoom Video Deposition Upon Oral Examination of Laura Malec (BCBSIL Rule 30(b)(6)) – CONFIDENTIAL	08/19/2022
J	Email chain between Patricia Pritchard and BCBSIL’s HSCS Customer Service re: denial (Dkt. No. 1-2)	05/10/2017
K	Letter from BCBSIL to Patricia Pritchard re: coverage for transgender services (Dkt. No. 1-3)	04/21/2017
L	BCBSIL Medical Policies, <i>Gender Assignment Surgery and Gender Reassignment Surgery with Related Services</i> – CONFIDENTIAL BCBSIL_CP_0003365-3383 (Rule 30(b)(6) Dep Exh. 34)	05/01/2019
M	Summary Plan Description – Medical (Franciscan Health) Blue Cross Blue Shield Integrated (Dkt. No. 1-1)	01/01/2019
N	BCBSIL denial letter (Dkt. No. 38-12)	08/08/2019
O	BCBSIL Administrative Services Agreement, effective 01/01/2014 (Rule 30(b)(6) Dep. Exh. 3) – CONFIDENTIAL	08/27/2015
P	Redlined Proposed Second Amended Complaint	08/23/2022
Q	Fifth Supplemental Responses and Objections to Plaintiffs’ Second Discovery Requests to Defendant BCBSIL – CONFIDENTIAL (Rule 30(b)(6) Dep. Exh. 46)	07/29/2022

DECLARATION OF ELEANOR HAMBURGER – 6
[Case No. 3:20-cv-06145-RJB]

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1 DATED this 25th day of August, 2022, at Seattle, Washington.

2
3 /s/ Eleanor Hamburger

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